

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

WILLIE JAMES MURPHY, JR.

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Plaintiff

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v.

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CIVIL NO. JKB-14-1597

UNITED STATES OF AMERICA

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Defendant

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MEMORANDUM

The Court has carefully reviewed the Plaintiff's MOTION REQUESTING RETURN OF WRONGFULLY SEIZED U.S. CURRENCY (ECF No. 1), the Government's MOTION TO DISMISS IN PART AND MOTION FOR SUMMARY JUDGMENT IN PART (ECF No. 11) and two documents filed by the Plaintiff, both titled PLAINTIFF [*sic*] MOTION REQUESTING THAT THE DEFENDANT'S MOTION TO DISMISS IN PART AND SUMMARY JUDGMENT IN PART BE DISMISSED AND THAT SUMMARY JUDGMENT BE GRANTED ON BEHALF OF THE PLAINTIFF IN THE ABOVE MATTER (ECF Nos. 12, 13). Upon review of these submissions and the entire file, the Court concludes that the Government's position is correct in all respects. The more appropriate forum for the litigation of the dispute involving the \$11,259.00 is the civil forfeiture proceeding now pending before the Court in Case No. JKB-14-2556. While it is true that the Government did not file that action within the normally required 90 days, the Court finds that the circumstances described in the Government's motion (that resulted in delay) are true and that they justify a tolling of the deadline of sufficient length to permit that matter to proceed.

As to the separate \$800.00 which the Plaintiff seeks to recover, summary judgment in the Government's favor is appropriate considering the affidavit submitted in support of the Government's motion. The Court finds that there is no genuine issue of material fact as to the question of whether or not the government possesses these funds. They do not, and the Court so finds.

Finally, there is no related criminal action pending against the Plaintiff, and therefore, appointment of counsel is not required or appropriate under either 18 U.S.C. §983(b), or 18 U.S.C. §3006A. The Plaintiff has made an insufficient showing in this regard and appointment of counsel is not warranted.

Accordingly, an Order will enter granting the Government's motion to dismiss that part of this case that relates to the \$11,259.00 and granting the Government's motion requesting summary judgment with respect to the \$804.00, thereby terminating the case. Further, the request for appointment of counsel will be denied.

The parallel matter, USA v. \$11,259 in U.S. Currency, Case No. JKB-14-2556, remains alive and pending.

DATED this 17th day of September, 2014.

BY THE COURT:

/s/
James K. Bredar
United States District Judge